

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JESSICA FLEMING,

Plaintiff,

vs.

HEARTLAND FAMILY SERVICE,

Defendant.

8:20CV486

ORDER

This matter is before the Court on plaintiff Jessica Fleming's motion for leave to file an amended complaint, [Filing No. 10](#). Also pending is defendant's motion to dismiss, [Filing No. 6](#). Under the Federal Rules of Civil Procedure, "[a] party may amend its pleading once as a matter of course within: . . . 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." [Fed. R. Civ. P. 15\(a\)\(1\)\(B\)](#). Because the plaintiff's motion with attached proposed amended Complaint ([Filing No. 10-1](#)) was filed within 21 days of the filing of the defendant's motion to dismiss, it may be filed without leave of court or consent. The proposed amended complaint may moot the deficiencies noted in the defendant's motion to dismiss. Accordingly,

IT IS ORDERED:

1. The plaintiff's motion for leave ([Filing No. 10](#)) is granted;
2. The plaintiff's proposed amended complaint ([Filing No. 10-1](#)) is deemed filed instant.
3. The defendant's motion to dismiss ([Filing No. 6](#)) is denied as moot without prejudice to refiling.

4. The defendant shall answer or otherwise respond to the plaintiff's amended complaint within 14 days of the date of this order.

Dated this 14th day of January, 2021.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge